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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,763	05/04/2001	Daniel A. Fratello	5544.00	2651

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
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DENVER, CO 80202-5647

EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/849,763

Applicant(s)

FRATELLO ET AL.

Examiner

FRANKIE L STINSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/26/01, Pre amd't A.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-105 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-50, 89 and 90-97, drawn to a vehicle washing method/apparatus, classified in class 134, subclass 34.
- II. Claim 51-55, drawn to a vehicle washing system, classified in class 134, subclass 123.
- III. Claim 56-61, drawn to a method of washing a vehicle, classified in class 134, subclass 26.
- IV. Claims 62-65 and 69-75, drawn to a vehicle washing system, classified in class 134, subclass 198.
- V. Claims 76-87 and 98-105, drawn to a vehicle washing control method/system, classified in class 134, subclass 18.
- VI. Claim 88, drawn to a vehicle washing system, classified in class 134, subclass 45.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of GROUP I and of GROUP II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP II has separate utility such as in a device not requiring a movable platform. See MPEP § 806.05(d).

3. Inventions of GROUP I and of GROUP III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2)

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the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be practiced by another and materially different process such as one not requiring washing a vehicle in three or fewer passes.

4. Inventions of GROUP I and of GROUP IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP I has separate utility such as in a device not requiring on or more slow rotating turbo nozzles or one or more oscillating nozzles. See MPEP § 806.05(d).

5. Inventions of GROUP I and of GROUP V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP II has separate utility such as in a device not requiring vertical leg or an automated control system or a movable gantry. See MPEP § 806.05(d).

6. Inventions of GROUP I and of GROUP VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP I has separate utility such as in a device not requiring a left and a right tire stop. See MPEP § 806.05(d).

7. Inventions of GROUP II and of GROUP III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2)

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the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as one not requiring a movable gantry.

8. Inventions of GROUP II and of GROUP IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP II has separate utility such as in a device not requiring one or more slow rotating turbo nozzles or oscillating nozzles. See MPEP § 806.05(d).

9. Inventions of GROUP II and of GROUP V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP II has separate utility such as in a device not requiring an automated control system or a moving gantry. See MPEP § 806.05(d).

10. Inventions of GROUP II and of GROUP VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP II has separate utility such as in a device not requiring a left and a right tire stop. See MPEP § 806.05(d).

11. Inventions of GROUP III and of GROUP IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2)

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the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be practiced by another and materially different process such as one not requiring an application of a pre-soak solution.

12. Inventions of GROUP III and of GROUP V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP III has separate utility such as in a device not requiring determining the relative position of the front end of the vehicle. See MPEP § 806.05(d).

13. Inventions of GROUP III and of GROUP VI are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be practiced by another and materially different process such as one not requiring washing the vehicle in three or fewer passes.

14. Inventions of GROUP IV and of GROUP V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be practiced

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by another and materially different process such as one not requiring determining the relative position of the vehicle's front end.

15. Inventions of GROUP IV and of GROUP VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of GROUP IV has separate utility such as in a device not requiring a left and a right tire stop. See MPEP § 806.05(d).

16. Inventions of GROUP V and of GROUP VI are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus such as one not requiring a left and a right tire stop.

17. Upon the election of the selection of either of the above GROUPS, the following ELECTION of SPECIES is deemed applicable:

18. This application contains claims directed to the following patentably distinct species of the claimed invention: (a) the species of fig. 14; (b) the species of fig. 15; (c) the species of figs. 19; (d) the species of fig. 24; (e) the species of fig. 25; (f) the species of fig. 27; (g) the species of fig. 28; (h) the species of fig. 29; (i) the species of fig. 30; (j) the species of fig. 39 and (k) the species of fig. 40.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1, for example is generic.

19. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

20. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

21. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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22. A telephone call was made to the Office of Dorsey Whitney, LLP on March 10, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

23. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

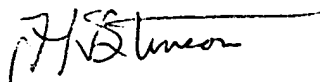
24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (703) 308-0661. The examiner can normally be reached during the first week of the pay-period M-F from 5:30 a.m. to 3:00 p.m. and during the second week of the pay-period from Tu-Th second from 5:30 a.m. to 3:00 p.m. and on Fri. from 5:30 a.m. to 2:00 p.m. Alternating Mondays off.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact Office Manager Ms. Sandra Sewell (703) 308-0661.

fls


FRANKIE L. STINSON
Primary Examiner
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